

# House Study Bill 14 - Introduced

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON HOLT)

## A BILL FOR

1 An Act relating to the creation, administration, and  
2 termination of minor guardianships.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232D.301, subsection 2, paragraph d,  
2 subparagraph (3), Code 2021, is amended to read as follows:

3 (3) Any adult who has had the primary care of the minor or  
4 with whom the minor has lived for ~~at least~~ any time during the  
5 six months prior to immediately preceding the filing of the  
6 petition.

7 Sec. 2. Section 232D.301, subsection 4, Code 2021, is  
8 amended to read as follows:

9 4. The petition shall state whether a limited guardianship  
10 is appropriate, and whether a conservatorship for the minor  
11 already exists.

12 Sec. 3. Section 232D.302, subsection 2, Code 2021, is  
13 amended to read as follows:

14 2. Notice shall be served upon the minor's known parents  
15 listed in the petition in accordance with the rules of civil  
16 procedure. If the parent has not filed a consent to the  
17 appointment of a guardian, the notice shall inform any parent  
18 named in the petition that the parent may be entitled to an  
19 attorney under the conditions described in section 232D.304.

20 Sec. 4. Section 232D.305, subsection 1, Code 2021, is  
21 amended to read as follows:

22 1. The court may appoint a court visitor for the minor. A  
23 person is qualified to serve as a court visitor if the person  
24 has demonstrated sufficient knowledge of guardianships to  
25 adequately perform the duties in subsection 3.

26 Sec. 5. Section 232D.305, subsection 3, paragraph b, Code  
27 2021, is amended to read as follows:

28 ~~b. Explaining~~ Providing to the minor, if the minor's age  
29 is appropriate, the substance of the petition, the purpose and  
30 effect of the guardianship proceeding, information regarding  
31 the rights of the minor at the hearing, and the general powers  
32 and duties of a guardian.

33 Sec. 6. Section 232D.305, Code 2021, is amended by adding  
34 the following new subsection:

35 NEW SUBSECTION. 6. The court may order a court visitor to

1 continue to serve if the court determines continued service  
2 would be in the best interest of the minor. If the court  
3 continues the service of the court visitor, the court may limit  
4 the direct duties of the court visitor as the court deems  
5 necessary, in which case the court visitor shall thereafter  
6 continue to serve until discharged by the court. In the  
7 event the court does not order the court visitor to continue,  
8 the order appointing the guardian shall discharge the court  
9 visitor.

10 Sec. 7. Section 232D.307, subsections 1 and 2, Code 2021,  
11 are amended to read as follows:

12 1. The court shall request criminal record checks and checks  
13 of the child abuse, dependent adult abuse, and sex offender  
14 registries in this state for all proposed guardians other than  
15 financial institutions with Iowa trust powers unless a proposed  
16 guardian has undergone the required background checks in this  
17 section within the ~~twelve~~ six months prior to the filing of a  
18 petition and the background checks have been provided to the  
19 court.

20 2. The court shall review the results of background checks  
21 in determining the suitability of a proposed guardian for  
22 appointment, and may, for good cause, share the results of the  
23 background check with the proposed guardian.

24 Sec. 8. Section 232D.401, subsections 1 and 3, Code 2021,  
25 are amended to read as follows:

26 1. The order by the court appointing a guardian for a minor  
27 shall state the basis for the order and the date on which the  
28 first reporting period for the guardianship will end.

29 3. An order by the court appointing a guardian for a minor  
30 shall state the powers granted to the guardian. Except as  
31 otherwise limited by court order, the court may grant the  
32 guardian the following powers, which may be exercised without  
33 prior further court approval:

34 a. Taking custody of the minor and establishing the minor's  
35 permanent residence if otherwise consistent with the terms of

1 any order of competent jurisdiction relating to the custody,  
2 placement, detention, or commitment of the minor within the  
3 state.

4     *b.* Consenting to medical, dental, and other health care  
5 treatment and services for the minor.

6     *c.* Providing or arranging for the provision of education  
7 for the minor including but not limited to preschool education,  
8 primary education and secondary education, special education  
9 and related services, and vocational services.

10     *d.* Consenting to professional services for the minor to  
11 ensure the safety and welfare of the minor.

12     *e.* Applying for and receiving funds and benefits payable  
13 for the support of the minor if the minor does not have a  
14 conservator. If the minor has a conservator, the guardian  
15 shall notify the conservator at least ten days before applying  
16 for funds or benefits for the support of the minor.

17     *f.* Any other powers the court may specify.

18     Sec. 9. Section 232D.501, subsection 1, paragraph a, Code  
19 2021, is amended by adding the following new subparagraph:

20     NEW SUBPARAGRAPH. (2A) The guardian's plan, if any, for  
21 applying for and receiving funds and benefits payable for the  
22 support of the minor.

23     Sec. 10. Section 232D.501, subsection 1, paragraph b, Code  
24 2021, is amended by adding the following new subparagraph:

25     NEW SUBPARAGRAPH. (11) The results of the guardian's  
26 efforts to apply for funds or benefits for the minor, and  
27 an accounting for the use of such funds or benefits by the  
28 guardian.

29     Sec. 11. Section 232D.503, Code 2021, is amended by adding  
30 the following new subsection:

31     NEW SUBSECTION. 6. If the court orders termination of a  
32 guardianship established under this chapter and the guardian  
33 has custody of the minor's assets, the court shall order  
34 delivery of the minor's assets to the minor or a fiduciary  
35 acting under one or more of the following accounts:

1     *a.* A uniform transfer to minors Act account established for  
2 the minor pursuant to chapter 565B or other state law.

3     *b.* An educational savings plan trust account established for  
4 the minor pursuant to section 529 of the Internal Revenue Code  
5 or chapter 12D.

6     *c.* An ABLE savings plan trust account established for the  
7 minor pursuant to section 529A of the Internal Revenue Code or  
8 chapter 12I.

### EXPLANATION

10           The inclusion of this explanation does not constitute agreement with  
11           the explanation's substance by the members of the general assembly.

12 This bill relates to the creation, administration, and  
13 termination of minor guardianships.

14 Under current law, a petition for guardianship only requires  
15 the address and name of any adult who was the primary caregiver  
16 or lived with the minor for the six months prior. The bill  
17 provides that a petition for guardianship must include the  
18 name and address of the primary caregiver or adult with whom  
19 the minor has lived anytime during the six months immediately  
20 before the filing. Under the bill, the petition must also  
21 include whether there is already a conservatorship in place for  
22 the minor.

23 The bill provides that notice of a filed petition for  
24 guardianship shall inform parents, who have not filed a  
25 consent to the appointment of a guardian with the court that  
26 the parents may be entitled to an attorney under current Code  
27 section 232D.304.

28 The bill provides the qualifications and term of service of  
29 a court visitor for the minor.

30 The bill provides that results of background checks of  
31 the proposed guardian in the 6 months prior to filing of the  
32 petition may be used; current law permits the use of background  
33 checks within the prior 12 months. Results of the background  
34 checks may be shared with good cause to the proposed guardian.

35 The bill provides that the order appointing a guardian for a

1 minor shall state the date that the first reporting period for  
2 the guardianship will end.

3 The bill provides that the initial care plan shall include  
4 the guardian's plan for funds and benefits payable for the  
5 support of the minor and the verified annual report shall  
6 include the results of the guardian's efforts to receive  
7 funds or benefits and the account for the use of the funds or  
8 benefits.

9 The bill provides that upon termination of guardianship  
10 in which the guardian has custody of the minor's assets, the  
11 assets must be returned to the minor or a fiduciary for the  
12 minor for any of the following accounts: a uniform transfer to  
13 minors Act account, an educational savings plan trust account,  
14 or an ABLE savings plan trust account.